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Message Text

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ACTION IO-13

INFO OCT-01 EUR-12 ISO-00 L-03 AF-08 ARA-06 EA-07
NEA-10 AID-05 EB-08 CIAE-00 INR-07 NSAE-00 SS-15
NSC-05 SSO-00 NSCE-00 INRE-00 OIC-02 CEA-01
COME-00 FRB-03 SP-02 STR-04 TRSE-00 LAB-04 SIL-01
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INFO USMISSION UN NEW YORK
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FOR SCHWEBEL AND NORRIS

E.O. 11652: N/A
TAGS: UNIDO, EIND, OCON, PORG
SUBJECT: UNIDO, ARTICLES 20 (AMENDMENTS) AND 24 (RESERVATIONS

1. SUMMARY: LEGAL DRAFTING GRUOP WILL PROBABLY NOT REPORT OUT ARTICLE 20 (AMENDMENTS) FOR REASONS WHICH US DEL SUPPORTS, AND ARTICLE 24 (RESERVATIONS) FOR REASONS WHICH US DEL HAS BEEN UNABLE TO TALK GP-D OUT OF.

2. LEGAL DRAFTING GROUP HAS NOT YET APPROVED AND SENT TO CONTACT GROUP ARTICLES 20 (AMENDMENTS) AND 24 (RESERVATIONS).

3. LEGAL DRAFTING GROUP PREVIOUSLY APPROVED ARTICLE 20, PARAS 1 AND 2, WHICH ARE AS FOLLOWS:

QTE 1. ANY MEMBER MAY PROPOSE AMENDMENTS TO THIS CONSTI-
TUTION. TEXTS OF PROPOSED AMENDMENTS SHALL BE COMMUNI-
CATED BY THE DIRECTOR-GENERAL TO ALL MEMBERS AT LEAST
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NINETY DAYS IN ADVANCE OF THEIR CONSIDERATION BY THE CONFERENCE. END QTE.

2. AMENDMENTS SHALL COME INTO FORCE AND (EXCEPT AS SPECIFIED IN PARAGRAPH3) BE BINDING ON ALL MEMBERS WHEN:

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(A) APPROVED BY THE CONFERENCE BY A TWO-THIRDS MAJORITY OF ALL MEMBERS: AND
(B) TWO-THIRDS OF THE MEMBERS HAVE DEPOSITED AN INSTRUMENT OF RATIFICATION, ACCEPTANCE OR APPROVAL OF THE AMENDMENT WITH THE DEPOSITARY.

4. LEGAL DRAFTING GROUP HAS NOT, PREVIOUSLY OR AS YET AT THIS SESSION, BEEN ABLE TO RESOLVE THE QUESTION OF THE AMENDMENT PROCEDURE TO APPLY TO CERTAIN SPECIALLY IMPORTANT ARTICLES. THE VERSION OF ARTICEL 20, PARA 3, THAT WAS CONSIDERED AT IGC-III WAS AS FOLLOWS:

QTE AN AMENDMENT (RELATING TO THE PURPOSE TO WHICH ASSESSED CONTRIBUTIONS MAY BE APPLIED SHALL ONLY BE BINDING ON THOSE MEMBERS)(IMPOSING NEW OBLIGATIONS ON MEMBERS SHALL ONLY BE BINDING ON THOSE OF THEM) THAT HAVE DEPOSITED AN INSTUMENT OF RATIFICATION, ACCEPTANCE OR APPROVAL THEREOF. END QTE.

BRACKETED PHRASES WERE PROPOSED BY GP-B (FIRST BRACKET) AND GP-D (SECOND BRACKET). IT IS APPARENT THAT THINKING OF US DEL HAS PROGRESSED SINCE THESE PHRASES WERE INTRODUCED AT IGC-III. GP-B (FIRST BRACKET) SOUGHT TO PROTECT DEFINITION OF ASSESSED BUDGET, WHICH THEN APPEARED TO BE THE MAJOR ISSUE.

SINCE THEN, GP-B HAS URGED A SET OF INSTITUTIONAL ARRANGEMENTS TO PROTECT OUR BUDGETARY SITUATION. GP-D PROPOSED (SECOND BRACKET), WHILE CAST IN BROAD TERMS, SIMILARLY DOES NTO PROTECT OUR PORPOSED INSTITUTIONAL ARRANGEMENTS. FOR LIMITED OFFICIAL USE

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INSTANCE, IT WOULD BE DIFFICULT TO URGE THAT A CHANGE IN THE COMPOSITION OF THE BOARD "IMPOSES NEW OBLIGATIONS ON MEMBERS".

5. GIVEN THIS EVOLVING PATTERN, GP-B HAS SUGGESTED THAT THE AMENDMENT OF CERTAIN ARTICLES REQUIRE SPECIAL PROCEDURES, I.E, ARTICLES 5, 8, 9, 10 BIS, 11 AND 20. THIS IS KNOWN IN LEGAL DRAFTING GROUP AS THE GP-B "SHIPPING LIST". GP-77 HAS THUS FAR AGREED INFORMALLY TO SPECIAL REQUIREMENTS FOR PART OF THE "SHOPPING LIST", ARTICLES 10 (BIS), 11 AND 20, BUT NOT THE OTHERS.

6. REPRESENTATIVES OF GP-77 APPROACHED USDEL DURING MEETING SATURDAY, MARCH 26 WITH FOLLOWING PROPOSAL: ARTICLES ON AN AS YET UNDEFINED "SHOPPING LIST" COULD NOT BE ADOPTED BY THE ORGANIZATION UNLESSS THEY RECEIVED A TWO-THIRDS MAJORITY OF ALL MEMBERS OF THE BOARD (NOTE THIS IS NOT TWO-THIRDS OF MEMBERS PRESENT AND VOTING) AND TWO-THIRDS OF MEMBERS OF THE CONFERENCE (SAME NOTE). AMENDMENTS ADOPTED WOULD ENTER

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INTO FORCE WHEN RATIFIED BY FOUR-FIFTHS OF THE MEMBERSHIP.

7. IF WE ARE TO GO ALONG WITH THIS PROPOSAL WE SHOULD BE ABLE TO INDICATE OUR POSITION BY WEDNESDAY MARCH 30.

8. US DEL HAS BEEN RELATIVELY UNWORRIED ABOUT ARTICLE 20. WE THOUGHT WE WON THE WAR WHEN WE OBTAINED A GOOD WITH-DRAWAL ARTICLE (ARTICLE 5). THE EEC AND ITS MEMBERS CONCEDE THAT ARTICLE 5 GIVES THE U.S. AS THE MAXIMUM CON-TRIBUTOR, A SIZEABLE SAFEGUARD. THE THREATOF THE U.S. TO WITHDRAW WOULD HAVE A MAJOR IMPACT; THE NEGOTIATING POSITION OF THE U.S. IN THE PERIOD BETWEEN ITS NOFICA-TION OF WITHDRAWAL AND THE EFFECTIVE DATE OF WITHDRAWAL WOULD BE STRONG. EEC MEMBERS URGE, HOWEVER, THAT THEIR SITUATION IS NOT COMPARABLE. THE THREAT OF WITHDRAWAL BY ONE, OR EVEN, SEVERAL, EEC MEMBERS WOULD PROBABLY NOT HAVE A SIGNIFICANT POLITICAL IMPACT. ONLY IF THE ENTIRETY OF
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THE EEC WERE TO THREATEN TO WITHDRAW WOULD THE TREAT HAVE THE IMPACT OF A U.S. THREAT TO WITHDRAW.

9. EEC MEMBERS ARE ALSO NOT SATISFIED THAT WITHDRAWAL IS FEASIBLE IN THEIR CASE BECAUSE OF DOMESTIC POLITICAL REASONS. THEY URGE THAT POLITICAL PRESSURE TO WITHDRAW WOULD IN THEIR COUNTRIES, PROBABLY BE MORE THAN COUNTER BALANCED BY THE :DEVELOPMENT LOBBY". THEY ALSO URGE THAT THEIR ELECTED OFFICIALS ARE, IN GENERAL, SOMEWHAT TO THE LEFT OF THE CIVIL SERVANTS. (U.S. DEL HAS NOT CONCEDED THE RELEVANCE OF THIS POINT).

10. IN THE CIRCUMSTANCES, EEC MEMBERS WISH TO REJECT THE GP-77 PROPOSAL IN FAVOR OF AN ARRANGEMENT THAT WOULD REQUIRE "SHIPPING LIST" ARTICLES TO BE APPROVED IN THE BOARD BY A FOUR-FIFTHS MAJORITY, IN THE CONFERENCE BY A TWO-THIRDS MAJORITY, AND THEN RATIFIED BY TWO-THIRDS OF THE MEMBER-SHIP. OUR SOUNDINGS WITH GP-77 REPRESENTATIVES INDICATE THAT A FOUR-FIFTHS MAJORITY IN THE BOARD IS UNACCEPTABLE FOR PRECEDENTIAL REASONS.

11. US DEL WOULD HAVE PREFERRED TO ACCEPT THE GP-77 PRO-POSAL IN PRINCIPLE AND CONCENTRATE ON GETTING AN ACCEPTABLE "SHOPPING LIST". AT THE SAME TIME, IT MUST BE NOTED THAT THE EEC COUNTRIES WERE FIRM AND EFFECTIVE IN SUPPORTING OUR EFFORTS TO GET AN ACCEPTABLE ARTICLE 5 DESPITE THEIR OPINIONS THAT IT HAD LITTLE BENEFIT FOR THEM. COOPERATION IS A TWO-WYA STREET. ON BALANCE, US DEL, UNLESS OTHERWISE INSTRUCTED, WILL QUIETLY SUPPORT EEC EFFORTS TO OBTAIN A FOUR-FIFTHS. MAJORITY IN THE BOARD FOR AMENDMENTS TO THE "SHOPPING LIST" ARTICLES, EVEN THOUGH THIS PROBABLY MEANS THAT THE LEGAL

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DRAFTING GROUP WILL NOT REPORT OUT AN ARTICLE 20.

12. WITH REFERENCE TO ARTICLE 24 (RESERVATIONS): GP-D
ADMITS THAT THE ONLY REASON IT WANTED TO ALLOW FOR RESERVATIONS
WAS ARTICLE 19 (SETTLEMENT OF DISPUTES). IT ALSO ADMITS THAT
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IT DOES NOT OPPOSE ARTICLE 19 AS REPORTE TO THE CONTRACT
GROUP. IT STILL WANTS TO RETAIN THE ABILITY TO MAKE RESER-
VATIONS, WHICH MEANS ARTICLE 24 WILL PROBABLY NOT BE REPORTED
OUT. COMMENT: SOMETIMES WORKING WITH GROUP D IS FRUSTRATING.
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